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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/602,281	06/24/2003	William Ian Young	006-349-300	1719	
2292	7590 04/04/2006		EXAMINER		
BIRCH STE	EWART KOLASCH & BI	UPTON, CHE	UPTON, CHRISTOPHER		
PO BOX 747 FALLS CHURCH,VA 22040-0747			ART UNIT	PAPER NUMBER	
TALLES CITE	22010 07 11		1724	1724	
			DATE MAILED: 04/04/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary 10/602.281	•				Si				
## Defice Action Summary Examiner	4		Application No.	Applicant(s)					
Christopher Upton 1724 Deriod for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Eatherbase of time may be evaluate under the provisions of UFR 17364, in one event, however, may early be temply filed. 18 NO period for reply is a specified above, the maximum stability pierod will apply and will expire SIX (8) MONTAS from the maining date of this communication. Failurs to reply with the stor orectangle period for reply is applicated before the reply the statute, cause the specification is from the maining date of this communication. Failurs to reply show with 500 filed better the maining date of this communication, even if timely filed, may reduce any source plants from separations. Sea 3° CFR 1736(b). Status 1) Separation in Splication is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 2.8.10-17 and 19-28 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) 2.8.10-17 and 19-28 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) 2.3.5-8.10-12.14-17.19.21.24 and 25 is/are rejected. 7) Claim(s) 2.3.2-8.10-12 is/are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. Application Papers 9) The drawing(s) field on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(s), Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment	·	Office Action Comments	10/602,281	YOUNG ET AL.					
The MALING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Eatherlands of their may be validable under the provision of 37 CFR 1.13(6), in no event, however, may a reply to brindly filled in the provision of 37 CFR 1.13(6), in no event, however, may a reply to brindly filled in the maximum statuktory period will apply and will expire SIX (3) MONTHS from the malling date of this communication of the provision provision and the communication of the provision provision and the communication of the communication is provided by the communication of the communication is non-final. 3) □ Responsive to communication(s) filled on 21 February 2006. 2a) ☑ This action is FINAL. 2b) □ This action is non-final. 3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) ☑ Claim(s) 2.8 is/are allowed. Claim(s) 2.8 is/are allowed. Claim(s) 2.8 is/are allowed. Claim(s) 2.8 is/are allowed. Claim(s) 2.3 is/are objected to by the Examiner. Application Papers 9) □ The specification is objected to by the Examiner. Application Papers 9) □ The specification is objected to by the Examiner. Application Papers 9) □ The provision of declaration is objected to by the Examiner. Application Papers 9) □ The specification is objected to by the Examiner. Application Papers 9) □ The specification is objected to by the Examiner. Application Papers 9) □ The Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) □ All □ □ So		Office Action Summary	Examiner	Art Unit	-				
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extractions of three may be available under the provisions 43°C FR 1.38(a). In no event, horever, may a respy be timely filled - Extractions of three may be available under the provisions 43°C FR 1.38(a). In no event, horever, may a respy be timely filled - Extraction of the major to the provision of the provisions 43°C FR 1.38(a). In no event, horever, may a respy be timely filled. - Falluse to reply within the set of extended peace for reply will, by statute, cause the application to become ABANDONED (35 U.S. C.§ 133). Any reply received by the folicis with their hore horizing after the mailing date of this communication, even if timely filled, may reduce any event part term adjustment. Set 97°C FR 1.794(b). Status 1) □ Responsive to communication(s) filled on 21 February 2006. 2a) □ This action is FINAL. 2b) □ This action is non-final. 3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) □ Claim(s) 2.8.10-17.1 and 19-28 is/are pending in the application. 4a) Of the above claim(s) □ is/are withdrawn from consideration. 5) □ Claim(s) 2.8.16/12.14-17.19.21.24 and 25 is/are rejected. 7) □ Claim(s) 2.8.54/12.14-17.19.21.24 and 25 is/are rejected. 7) □ Claim(s) 3.13.20.22.23.26 and 27 is/are objected to. 8) □ Claim(s) 3.13.20.22.23.26 and 27 is/are objected to. 8) □ Claim(s) □ are subject to restriction and/or election requirement. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) □ The drawing(s) filed on □ is/are: a) □ accepted or b) □ objected for by the Examiner. Appl									
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6) Claim(s) 2,3,5-8,10-12,14-17,19,21,24 and 25 is/are rejected. 7) Claim(s) 4, 13, 20, 22, 23, 26 and 27 is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Praftsperson's Patent Drawing Review (PTO-948)		4a) Of the above claim(s) is/are withdrawn from consideration.							
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10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1 Certified copies of the priority documents have been received. 2 Certified copies of the priority documents have been received in Application No 3 Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	Applicati	on Papers							
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Paper No(s)/Mail Date 6) Other:	3) 🔲 Inform	nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) 🔲 Notice of Informal Pa						

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- 1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 2. Claims 2, 3, 5-8, 10-12, 14-17, 19, 21, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kallenbach et al in view of Hater.

Kallenbach discloses a foamed polymeric carrier for microorganisms, which may be floating (see column 4, lines 11-14). Kallenbach does not disclose that the device may be used to remediate hydrocarbons with hydrocarbon digesting microorganisms. It is known to use a carrier for microorganisms to treat hydrocarbons, as exemplified by Hater. It would therefore have been obvious for one skilled in the art to adapt the device of Kallenbach to treat hydrocarbons, in view of the general disclosure by Kallenbach that the device may be used in a wide variety of applications, including water treatment and bioremediation (see column 5, line 66 - column 6, line 4). With respect to claims 3, 5-8, 12, 14-17 and 21, it is submitted that the specific form and type of microorganism would have been an obvious matter of choice for one skilled in the art, due to the disclosure by Kallenbach that a wide variety of microorganisms may be used depending on the treatment desired, and therefore fails to patentably distinguish over Kallenbach. Note that Kallenbach discloses that a clay may be used as the treating material (see column 4, lines 55-60).

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3. Claims 4, 13, 20, 22, 23, 26 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 28 is allowed.

The recitation of a system and method for removing hydrocarbons from a body of water comprising a floater containing microbes, wherein the floater is formed of porous polymeric foam and the microorganisms are inserted into an opening in the floater, are located throughout the floater or are mixed into the foam prior to foaming patentably distinguishes over the prior art of record.

4. Applicant's arguments filed on February 21, 2006 have been fully considered but they are not persuasive.

Applicant argues that the Kallenbach patent teaches away from locating the microorganisms within the core of the foam. It is submitted that the claims, except for claim 26 do not require that the microbes be located throughout the floater, and therefore in the core area as well as the outer region of the floater. It is submitted that the recitation of "within the floater" or "into the floater," as found in the instant claims does not specify the core, or any specific part of the floater. Therefore, the claims read in the microbes found within the surface and outer region of the foam of Kallenbach.

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Upton whose telephone number is 571-272-1169. The examiner can normally be reached on 7:30-5:00, off every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher Upton Primary Examiner